

REMARKS/ARGUMENTS

At ¶5 of the Office Action, the Examiner rejects claims 1-17 under 35 U.S.C. §103(a) as being unpatentable over Herz (U.S. Patent No. 6,460,036) in view of Walker (U.S. Patent No. 6,249,772). As the Examiner states at page 3 of the Office Action, the Applicant maintains that the Herz reference does not disclose distributing the negotiation function to a consumer for execution by the consumer.

The Applicant further argues that the Walker reference does not teach or suggest distributing a negotiant function, as required by independent claims 1 and 7. Walker merely describes a consumer negotiating a price, but does not teach or suggest distributing any sort of function for performing the negotiation. Nor does Walker teach a negotiation function being executed by a consumer. As the Applicant set forth in the Response dated February 14, 2005, claim 1 requires that the negotiant function *be with the consumer, i.e., “ . . . distributing the negotiant function to a consumer . . . ”* Claim 1 also requires that the negotiant function *be executed by the consumer, i.e., “ . . . for execution by said consumer . . . ”* Walker does not teach or suggest a negotiant function distributed to and executed by a consumer.

Further, in the text the Examiner cites (abstract and col. 10, lines 35-45), Walker teaches the system 100 allowing for local store inventory checking and inventory reservations after a consumer negotiates a price for selected goods. The consumer negotiations referred to in Walker are therefore not part of the system/method described in Walker. Walker includes many references that describe the consumer negotiations occurring apart from the described system/method. For example, see col. 5, line 34; col. 10, line 40; col. 16, line 12; col. 17, lines 19 and 24; col 18 line 1; and col. 24, lines 15-16. All of these references mention either "previously negotiated," or "pre-negotiated," or operations that occur "after negotiating." Walker does not disclose a system/method wherein a consumer negotiates a price as the Examiner suggests – the consumer negotiation is not part of the system/method. Therefore no motivation exists to combine Herz with Walker for these rejections.

Neither Herz nor Walker, alone or in combination, teaches or suggests all of the limitations of claims 1 and 7. Therefore these rejections are improper and should be withdrawn.

Appln. No. 09/802,278
Amdt. dated October 7, 2005
Reply to Office Action of May 11, 2005

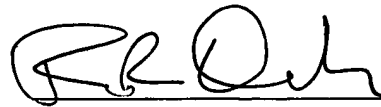
Independent claim 3 recites receiving a negotiant function for execution. As set forth above, neither Herz nor Walker, alone or in combination, teach or suggest any distribution of a negotiant function. Since Herz or Walker, alone or in combination do not teach all of the limitations of claim 3, the rejection is improper and should be withdrawn.

For the reasons stated above, we believe that all of the claims are allowable and therefore ask the Examiner to allow them to issue.

Please apply any charges not covered, or any credits, to Deposit Account No. 08-0219.

Respectfully submitted,

Date: October 7, 2005



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